

Dear Senators BURTENSHAW, Bayer, Nelson, and  
Representatives KAUFFMAN, Andrus, Toone:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
Idaho Barley Commission:

IDAPA 53.01.01 - Rules of the Idaho Barley Commission - Notice of Omnibus Rulemaking (Fee  
Rule) - Proposed Rule (Docket No. 53-0101-2100F).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 11/12/2021. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/10/2021.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the  
memorandum attached below.



**Terri Kondeff**  
Director

# Legislative Services Office

## Idaho State Legislature

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*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Agricultural Affairs Committee and the House Agricultural Affairs Committee

**FROM:** Deputy Division Manager - Katharine Gerrity

**DATE:** October 26, 2021

**SUBJECT:** Idaho Barley Commission

IDAPA 53.01.01 - Rules of the Idaho Barley Commission - Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule (Docket No. 53-0101-2100F)

#### Summary and Stated Reasons for the Rule

The Idaho Barley Commission submits notice of proposed rule at IDAPA 53.01.01 - Rules of the Idaho Barley Commission. According to the commission, the rulemaking publishes the rule chapter previously submitted to and reviewed by the Legislature.

#### Negotiated Rulemaking/Fiscal Impact

The commission states that negotiated rulemaking was not conducted "because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare." The commission notes that there is no fee or charge imposed or increased beyond what was previously submitted to and reviewed by the Legislature in prior rules. The commission states that Idaho barley growers pay a barley tax that is currently \$.03 per hundredweight of barley marketed which is collected at point of first purchase and remitted to the commission. The commission adds that section 22-4015, Idaho Code, allows for the barley tax of up to \$.04 per hundredweight. No fiscal impact is anticipated.

#### Statutory Authority

The rulemaking appears to be authorized pursuant to section 22-4009, Idaho Code.

cc: Idaho Barley Commission  
Laura Wilder

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Paul Headlee, Deputy Director Legislative Services Office	Kristin Ford, Manager Research & Legislation	Keith Bybee, Manager Budget & Policy Analysis	April Renfro, Manager Legislative Audits	Glenn Harris, Manager Information Technology
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Statehouse, P.O. Box 83720  
Boise, Idaho 83720-0054

Tel: 208-334-2475  
legislature.idaho.gov

**\*\*\* PLEASE NOTE \*\*\***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

**IDAPA 53 – IDAHO BARLEY COMMISSION**  
**DOCKET NO. 53-0101-2100F (FEE RULE)**  
**NOTICE OF OMNIBUS RULEMAKING – PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-4009, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This proposed rulemaking publishes the following rule chapter previously submitted to and reviewed by the Idaho Legislature under IDAPA 53, rules of the Idaho Barley Commission:

**IDAPA 53**

- IDAPA 53.01.01, *Rules of the Idaho Barley Commission.*

**FEE SUMMARY:** This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules. The following is a specific description of the current fees or charges:

Idaho barley growers pay a Barley Tax that is currently \$.03 per hundredweight of barley marketed which is collected at point of first purchase and remitted to the Idaho Barley Commission. Section 22-4015, Idaho Code, allows for the Barley Tax of up to \$.04 per hundredweight.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2022 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rule and fee being reauthorized by this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rule attached hereto.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Laura Wilder, Executive Director, Idaho Barley Commission at 208-334-2090 or [lwilder@barley.idaho.gov](mailto:lwilder@barley.idaho.gov).

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

DATED this October 20, 2021.

Laura Wilder, Executive Director  
Idaho Barley Commission  
821 West State Street  
Boise, ID 83702  
208-334-2090  
[lwilder@barley.idaho.gov](mailto:lwilder@barley.idaho.gov)

# IDAPA 53 – IDAHO BARLEY COMMISSION

## 53.01.01 – RULES OF THE IDAHO BARLEY COMMISSION

### 000. LEGAL AUTHORITY.

In accordance with Section 22-4009, Idaho Code, the Idaho Barley Commission has promulgated rules implementing the provisions of Chapter 40, Title 22, Idaho Code. ( )

### 001. SCOPE.

These rules provide the means for the protection, promotion, study, research, analysis and development of markets concerning the growing and marketing of Idaho barley. ( )

### 002. -- 099. (RESERVED)

### 100. FIRST PURCHASER RULES.

In accordance with Section 22-4015(1), Idaho Code, the Commission will designate the quarters (three (3) month periods) for the purpose of collecting the tax imposed on all barley grown, delivered into, or stored within the state of Idaho and sold or contracted in the state. ( )

**01. Designated Quarters.** The quarters designated by the Commission for payment of tax are: ( )

**a.** The Commission's first quarter will begin on the first day of July and end the thirtieth day of September. The first quarter barley tax is due on or before the fifteenth day of October. ( )

**b.** The Commission's second quarter will begin on the first day of October and end the thirty-first day of December. The second quarter barley tax is due on or before the fifteenth day of January. ( )

**c.** The Commission's third quarter will begin on the first day of January and end the thirty-first day of March. The third quarter barley tax is due on or before the fifteenth day of April. ( )

**d.** The Commission's fourth quarter will begin on the first day of April and end the thirtieth day of June. The fourth quarter barley tax is due on or before the fifteenth day of July. ( )

**02. Barley Tax Return (Form Number 1).** The first purchaser of barley is required to complete and send the Barley Tax Return (Form Number 1) to the commission office each and every quarter on or before the dates specified in these rules. The Barley Tax Return (Form Number 1) shall be provided to the first purchaser by the Commission and, at a minimum, require the following legible information: ( )

**a.** The tax reporting period. ( )

**b.** The name and address of the barley purchaser. ( )

**c.** The net weight of the barley purchased (if any) in pounds or hundredweights. ( )

**d.** The total amount of tax deducted (if any) from sellers by the purchaser. ( )

**e.** The tax withheld by Commodity Credit Corporation loans. ( )

**f.** The total amount of tax due the Commission (if any). ( )

**03. Delivery of Documents to Commission (Form Number 2).** The first purchaser of barley shall complete and return the Report of Tax on Barley (Form Number 2), or equivalent, to the commission office each and every quarter on or before the dates specified in these rules. The Commission will provide blank copies of Form Number 2 to the first purchaser. Form Number 2, or equivalent, will, at a minimum, require the following legible information: ( )

**a.** The name and address of the purchaser. ( )

**b.** The quarter the barley was purchased. ( )

- c. The name or names and address or addresses of the grower and seller. ( )
- d. The number of pounds of barley purchased. ( )
- e. The total barley tax withheld from each purchase. ( )

**04. Deduction of Tax on Net Weight of Barley.** The first purchaser shall deduct the barley tax on the NET weight of the barley after deduction of dockage. ( )

**05. Late Payment Penalty** (As specified in Section 22-4018 (2), Idaho Code). Any person or firm who makes payment to the Commission at a date later than prescribed in Section 22-4015, Idaho Code, is subject to a late payment penalty of fifteen percent (15%) per annum on the amount due. ( )

**101. -- 199. (RESERVED)**

**200. EXEMPTIONS.**

In accordance with Section 22-4015, Idaho Code, the barley assessment shall be imposed on all barley grown, delivered into or stored within, and sold or contracted in Idaho. If a barley assessment that serves a comparable purpose to the Idaho assessment was previously paid in a jurisdiction outside Idaho, the seller of the barley is exempt from payment of the Idaho barley assessment. The Commission will determine jurisdictions outside of Idaho that collect an assessment that serves a comparable purpose, which includes, as a minimum, funding for research and market development programs. In order to qualify for the exemption, the seller must demonstrate to the first purchaser in the state of Idaho that an assessment has been previously paid to such a jurisdiction. ( )

**201. -- 999. (RESERVED)**

## PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

**Department or Agency:** Idaho Barley Commission

**Agency Contact:** Laura Wilder

**Phone:** 208-334-2090 Office or 208-608-4519 Mobile

**Date:** September 30, 2021

**IDAPA, Chapter and Title Number and Chapter Name:**

**IDAPA 53 – IDAHO BARLEY COMMISSION**

**Fee Rule Status:**  **Proposed**  **Temporary**

**Rulemaking Docket Number:** 53-0101-2100F

### **STATEMENT OF ECONOMIC IMPACT:**

Idaho barley growers pay a Barley Tax that is currently \$.03 per hundredweight of barley marketed which is collected at point of first purchase and remitted to the Idaho Barley Commission. Idaho statute 22-4015 allows for the Barley Tax of up to \$.04 per hundredweight. The fees are unchanged from the previous year's temporary fee rule.

These fees provide funding for critical research, market development, education and information programs for Idaho barley growers. Inability to collect these fees would cause the programs to be suspended and significantly negatively impacting Idaho barley growers.